

1  
2  
3  
4  
5  
6  
7 IN THE UNITED STATES DISTRICT COURT  
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
9

10 NORTHERN CALIFORNIA RIVER  
11 WATCH, et al.

12 Plaintiffs

13 v.

14 OAKLAND MARITIME SUPPORT  
15 SERVICES, INC., et al.,

16 Defendants.  
17

No. C 10-3912 CW (JSC)

**ORDER RE PLAINTIFF'S MOTION  
TO COMPEL AND MOTION FOR  
SANCTIONS (Dkt. Nos. 49 and 52.)**

18 This is a Clean Water Act ("CWA") lawsuit. Plaintiffs seek to compel Defendants (1)  
19 to permit three site inspections pursuant to Federal Rule of Civil Procedure 34, and (2) and  
20 for production of financial information relevant to the penalties sought in this action. After  
21 carefully considering the parties' written submissions, and having heard oral argument on  
22 November 17, 2011, for the reasons stated during oral argument, the Court GRANTS  
23 Plaintiffs' motion to compel (Dkt. No. 49) in part and DENIES Plaintiffs' Motion for  
Sanctions (Dkt. No. 52).

24 1. Plaintiffs, with Defendants' consent, have already completed one "dry"  
25 inspection. Defendants are ordered to permit two "wet" inspections not to exceed five hours  
26 each. As the Complaint is not limited to the vehicle maintenance area, the inspections may  
27 cover the entire facility and are not limited to the maintenance area.

28 2. Defendants are ordered to comply with Plaintiffs' request for financial  
documents. Such documents are relevant to Plaintiffs' claim that Defendants should pay a

1 penalty for their alleged CWA violation. That the penalty will ultimately be paid to the  
2 government rather than Plaintiffs does not impact the documents' relevance. The Court will  
3 determine an appropriate penalty, if any, based on Plaintiffs' argument—an argument they  
4 cannot make if they have not seen the financial information. The Court also declines  
5 Defendants' implicit invitation to stay any financial information discovery until after a  
6 finding of liability. This case is scheduled for a single bench trial in November 2012.  
7 Moreover, discovery has already been delayed due to Defendants' previous counsel's  
8 unavailability. Plaintiffs shall produce the financial documents within 60 days after the date  
9 of this Order. The parties should work together to negotiate the terms of a protective order to  
10 govern this production.

11 3. Plaintiffs' Motion for Sanctions is denied.

12 **IT IS SO ORDERED.**

13  
14 Dated: November 17, 2011

15   
16 JACQUELINE SCOTT CORLEY  
17 UNITED STATES MAGISTRATE JUDGE  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28